

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3919 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE R.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes
2. To be referred to the Reporter or not? Yes

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3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge? No

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RUPSINH SONSINH PARMAR

Versus

SABARKANTHA DIST PANCHAYAT

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Appearance:

MR SV PARMAR for Petitioners  
MR BP TANNA for Respondent No. 1  
SERVED for Respondent No. 3

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CORAM : MR.JUSTICE R.A.MEHTA

Date of decision: 17/01/98

ORAL JUDGEMENT

1. The three petitioners have a grievance that they were not considered and called for interview for the post of driver even though they were qualified and eligible.

2. In the affidavit in reply, it is stated that for the 10 advertised posts of driver, there were 865 applications. Out of them, only 145 were qualified and eligible. As far as petitioner no.3 is concerned, his birthdate is 5.10.1943 and, therefore, he was clearly age barred as being more than 45 years of age. As regards the petitioners nos. 1 and 2, it is submitted that though they were within 145, the respondents have taken a decision that they would consider and call for interview only five times the number of vacancies. Since there were 10 vacancies, 50 persons were to be called for interview and for making shortlisting, they had adopted the criteria of date of obtaining licence for heavy motor vehicle and experience of running such heavy motor vehicle satisfactorily and on such objective criteria, 50 candidates were interviewed. The 50th candidate was having the licence of 24.6.1978, the petitioner no.2 had the licence of 1979 and the petitioner no.1 had the licence of 4.4.1980. Therefore, they were in that list at serial nos. 74 and 91. The persons beyond 50 were not called for interview. When there are large number of eligible candidates applying for limited posts, a shortlist has to be adopted and when it is done on an objective criteria, it cannot be said to be illegal or arbitrary and, therefore, the exclusion of these petitioners on the ground that they have failed to meet with the criteria for shortlisting cannot be said to be arbitrary or discriminatory.

3. The learned Counsel for the petitioners has submitted that these petitioners were already in service as drivers and, therefore, they were entitled to special consideration and they would form a class by themselves.

4. In the case of P.Ravindran Vs. Union Territory of Pondicherry, (1997)1 SCC 350, the Supreme Court has deprecated the method of regularisation of ad-hoc persons who were already in service and bypassing the regular procedure for selection. It was observed that the Supreme Court had in a catena of decisions deprecated this practice of regularisation except in extraordinary cases by directing the Government to frame a scheme, but in subsequent decisions, that leverage is not being insisted upon and in the case of J & K Public Service Commission Vs. Dr.Nariender Mohan, it was held that the Court cannot adopt hybrid process of direction to regularise the services bypassing the process of selection envisaged under the Constitution.

Therefore, it is clear that the persons who have already entered in service on ad-hoc or temporary basis

cannot get any weightage. The learned Counsel for the petitioners has submitted that in that judgment, the Supreme Court has directed relaxation of age till the date of next selection. It would be totally inappropriate in this case where the selection was more than a decade ago.

Hence this petition is dismissed. Rule discharged.

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mhs/-